

REMARKS

Claim Rejections

Claims 1-2 and 4-7 are rejected under 35 U.S.C. § 102(e) as being anticipated by King et al. (U.S. 6,530,004). Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over King et al. in view of Nakashima et al. (U.S. 6,189,0140). Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over King et al. in view of Han et al. (U.S. 2005/0015652).

Amendments to Specification

Applicant has amended the Specification as noted above to provide proper antecedent basis in the specification for reference numerals 131, 5, and 51. No "new matter" has been added to the original disclosure by the foregoing amendments to the Specification.

Drawings

Applicant proposes to amend Figures 3, 4, and 6, as illustrated in red on the attached photocopies. In Figures 3, 4, and 6, it is proposed to add the legends. No "new matter" has been added to the original disclosure by the proposed amendments to these figures. It is believed the foregoing proposed amendments obviate the outstanding objections to the drawings. Approval of the proposed drawing changes is respectfully requested.

Claim Amendments

By this Amendment, Applicant has canceled claims 3 and 8 and has amended claims 1 and 2 of this application. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The primary reference to King et al. teaches an efficient fault-tolerant preservation of data integrity during dynamic raid data migration including a plurality of disks (102-1 through 102-N), a controller (106), and a host computer (104).

King et al. do not teach partitioning a disk drive into a plurality of disk zones including a user zone, a ROM zone, and a protect zone; nor do King et al. teach assigning one of two passwords to each of the ROM zone and the protect zone utilizing a password operation mode utilizing the mathematical operation with the user input data and the register data.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that King et al. do not disclose each and every feature of Applicant's amended claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, King et al. cannot be said to anticipate any of Applicant's amended claims under 35 U.S.C. § 102.

The secondary reference to Nakashima et al. teaches a file management method for partitioning a partial ROM (11) including a ROM area (11a) and a RAM area (11b). The ROM area (11a) having a file management area (11a-1) and a file area (11a-2). The RAM area (11b) having a file management area (11b-1) and a file area (11b-2).

Nakashima et al. do not teach assigning one of two passwords to each of the ROM zone and the protect zone utilizing a password operation mode utilizing the mathematical operation with the user input data and the register data.

The secondary reference to Han et al. teaches a method for backing up and recovering data in the hard disk of a computer and states on page 2, lines 41-45:

Running password can be set for the software of the present invention to prevent the hard disk partitions and the mirror partition from unauthorized overwriting, the password is stored on the hard disk, no one can remove it by removing the CMOS, thus the security is high.

Han et al. do not teach partitioning a disk drive into a plurality of disk zones including a user zone, a ROM zone and a protect zone; nor do Han et al. teach assigning one of two passwords to each of the ROM zone and the protect zone utilizing a password operation mode utilizing the mathematical operation with the user input data and the register data.

Even if the teachings of King et al., Nakashima et al., and Han et al. were combined, as suggested by the Examiner, the resultant combination does not suggest: assigning one of two passwords to each of the ROM zone and the protect zone utilizing a password operation mode utilizing the mathematical operation with the user input data and the register data.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking

this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either King et al., Nakashima et al., or Han et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither King et al., Nakashima et al., nor Han et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims.

Application No. 10/035,315

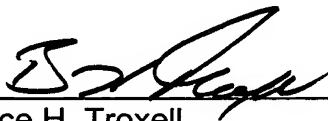
Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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Application No. 10/035,315

IN THE DRAWINGS:

Please amend Figures 3, 4 and 6 as illustrated in red on the attached photocopies. In Figures 3, 4, and 6, the legends have been added.